

**Appendix E - Section 4(f) Correspondence for MW&S Railroad
Maintenance Shop and Belfry School Picnic Area**



REC'D APR 08 2004

Montana Department of Transportation

2701 Prospect Avenue
PO Box 201001
Helena MT 59620-1001

March 3, 2004

MASTER FILE
COPYJanice W. Brown, Division Administrator
Federal Highway Administration (FHWA)
2880 Skyway Drive
Helena, MT 59602-1230Subject: STPP-F 72-1(1)10
BELFRY - NORTH
(PPMS-OPX2 Control #1016)

Date Recd Preconst		3/24/04
Act	Info	MAIL ROUTE
		David A. Galt, Director
		30 Preconstruction
		30 Assistant
		30 Office Mgr
		31 Safety Mgmt.
		32 Road Design
		33 Environment
		34 Hydraulics
		35 Survey & Mapping
		36 Traffic Eng
		39 Construction Dsn.

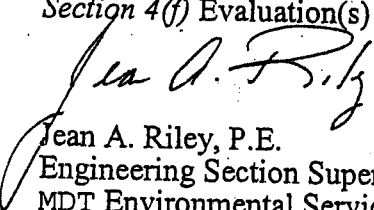
The MONTANA DEPARTMENT OF TRANSPORTATION (MDT) is hereby requesting FHWA's concurrence that this proposed project will have no "use" (including "constructive use") on the former Montana, Wyoming & Southern Railroad (MW&S) shop (site #24CB1146) under *Section 4(f)* of the 1966 U.S. DEPARTMENT OF TRANSPORTATION Act (49 U.S.C. 303). That site has been found eligible for listing in the National Register of Historic Places (National Register), and this proposed project's (preferred) "Railroad Alignment Alternative" will have "no adverse effect" on that status. The State Historic Preservation Office (SHPO) has concurred with both the eligibility and "effect" determination in compliance with *Section 106* of the *National Historic Preservation Act* (16 U.S.C. 470).

The following documentation demonstrates this proposed project's (preferred) "Railroad Alignment Alternative" avoidance of *Section 4(f)* "use" at this site are attached (2/each):

Attachment	Subject
1	no <i>Section 4(f)</i> "use" documentation and concurrence request
2	National Register eligibility determination w/SHPO's 01-Mar-03 concurrence
3	"no adverse effect" determination w/SHPO's 09-Dec-03 concurrence
4	(preferred) "Railroad Alignment Alternative" site map
5	(preferred) "Railroad Alignment Alternative" Typical Section @ site

This proposed project's (preferred) "Railroad Alignment Alternative" will not substantially impair this site's National Register eligibility which would result in a "constructive use" of same as defined in 23 CFR 771.135(p)(2). This determination is in compliance with both 23 CFR 771.135(p)(4)(ii) - (iv) and 23 CFR 771.135(p)(5)(i) - (iii). **Attachment 1** details this compliance, and requests the FHWA's concurrence with same.

Please return **Attachment 1**, signed on page 5 of same if the FHWA concurs that this proposed project's (preferred) "Railroad Alignment Alternative" will not require any (further) *Section 4(f)* Evaluation(s) on this former MW&S shop site.


Jean A. Riley, P.E.
Engineering Section Supervisor
MDT Environmental Services Bureau

DMH:JAR:asj: [S:\PROJECTS\BILLINGS\1016\A782\MW&S-NO4(F)\LETTEREQ.DOC]

Attachments

copies: Bruce H. Barrett, Administrator - MDT Billings District No 5, w/Attachments
Carl S. Peil, P.E. - MDT Preconstruction Engineer, w/Attachments
Tom S. Martin, P.E. - MDT Consultant Design & CTEP Engineer, w/Attachments
John H. Horton, Jr. - MDT Right-of-Way Bureau Chief, w/Attachments
Timothy W. Reardon, Chief Counsel - MDT Legal Services, w/Attachments
Dave M. Hill, Chief - MDT Environmental Services Bureau, w/Attachments
Jean A. Riley, P.E. - MDT Environmental Services Bureau Engineering Section Supervisor

Attachment 1

former MW&S shop (site 24CB1146)
no "use" documentation for 23 CFR 771.135

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STPP-F 72-1(1)10
BELFRY - NORTH
(PPMS-OPX2 C#1016)

The subsequent text is from FHWA's regulations concerning *Section 4(f)* of the *U.S. DEPARTMENT OF TRANSPORTATION Act* (49 U.S.C. 303), and documents both this proposed project's compliance with and avoidance of impacts to-same. The applicable portions of those provisions under 23 CFR 771.135 and this proposed project's relevance to-same are as-follows (note: the regulation's text is underlined, and "Administration" refers to the FHWA):

"(e) In determining the application of Section 4(f) to historic sites, the Administration, in cooperation with the applicant, will consult with the State Historic Preservation Office (SHPO) and appropriate local officials to identify all properties on or eligible for the National Register of Historic Places (National Register). The Section 4(f) requirements apply only to sites on or eligible for the National Register unless the Administration determines that the application of Section 4(f) is otherwise appropriate."

Two cultural resources surveys were made in this proposed project's corridor, and SHPO has concurred with the results of each regarding this former MW&S shop (site 24CB1146) as being "on or eligible for the National Register" (see attached copies of letters to SHPO).

"(f) The Administration may determine that Section 4(f) requirements do not apply to restoration, rehabilitation, or maintenance of transportation facilities that are on or eligible for the National Register when:

- (1) Such work will not adversely affect the historic qualities of the facility that caused it to be on or eligible for the National Register, and
- (2) The SHPO and the Advisory Council on Historic Preservation (ACHP) have been consulted and have not objected to the Administration finding in paragraph (f)(1) of this section."

Although SHPO has "been consulted and" . . . "not objected to the Administration finding in paragraph (f)(1) of this section" through the MDT Environmental Services Bureau's historian [note: under both 36 CFR 800.4(d)(1), & 36 CFR 800.5(c)(1), no ACHP consultation is required for findings of "no effect" & "no adverse effect" to National Register-eligible and/or listed sites], this proposed project's "preferred Railroad Alignment Alternative" is on a new location and the "restoration, rehabilitation, or maintenance of transportation facilities" criteria do not apply.

"(p) Use.

- (1) Except as set forth in paragraphs (f), (g)(2), and (h) of this section, "use" (in paragraph (a)(1) of this section) occurs:
 - (i) When land is permanently incorporated into a transportation facility;
 - (ii) When there is a temporary occupancy of land that is adverse in terms of the statute's preservationist purposes as determined by the criteria in paragraph (p)(7) of this section;
or
 - (iii) When there is a constructive use of land.
- (2) Constructive use occurs when the transportation project does not incorporate land from a Section 4(f) resource, but the project's proximity impacts are so severe that the protected activities, features, or attributes that qualify a resource for protection under Section 4(f) are substantially impaired. Substantial impairment occurs only when the protected activities, features, or attributes of the resource are substantially diminished.
- (3) The Administration is not required to determine that there is no constructive use. However, such a determination could be made at the discretion of the Administration."

(continued-on next page)

Attachment 1

former MW&S shop (site 24CB1146)
no "use" documentation for 23 CFR 771.135

STPP-F 72-1(1)10
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[part "(p) use" - continued:]

MDT is hereby requesting the FHWA "to determine that there is no constructive use" regarding this proposed project's result on this site. The next parts and sub-parts from 23 CFR 771.135(p) have specific application to this proposed project regarding "such a determination" and have been evaluated as-listed below each:

"(4) The Administration has reviewed the following situations and determined that a constructive use occurs when:

(i) The projected noise level increase attributable to the project substantially interferes with the use and enjoyment of a noise-sensitive facility of a resource protected by Section 4(f), such as hearing the performances at an outdoor amphitheater, sleeping in the sleeping area of a campground, enjoyment of a historic site where a quiet setting is a generally recognized feature or attribute of the site's significance, or enjoyment of an urban park where serenity and quiet are significant attributes;"

This site is not a "noise-sensitive" facility as it was a railroad rolling stock maintenance shop; therefore, a quiet setting is neither a feature or attribute of the site's significance nor were such identified-in the cultural resources survey reports regarding this site.

"(ii) The proximity of the proposed project substantially impairs esthetic features or attributes of a resource protected by Section 4(f), where such features or attributes are considered important contributing elements to the value of the resource. Examples of substantial impairment to visual or esthetic qualities would be the location of a proposed transportation facility in such proximity that it obstructs or eliminates the primary views of an architecturally significant historical building, or substantially detracts from the setting of a park or historic site which derives its value in substantial part due to its setting;"

As-stated in MDT's letter of November 24, 2003 to the SHPO: "the building would remain in place and unaltered. The characteristics that make the site eligible for the National Register would be perpetuated. It would not be isolated from its environment or suffer from neglect as a result of the project. It would not be demolished and the setting would largely remain intact." SHPO concurred with these findings on December 9, 2003 (please refer-to **Attachment 3** for a copy of this letter and SHPO's stamp-of-concurrence on-same). That is also a concurrence regarding MDT not having a significant impact to the aesthetic qualities ("the setting") of the property. The new roadway would not obstruct or eliminate "the primary views of" the site. The building is currently located far enough away from Montana Primary highway #72's (P-72's) present route through Belfry that it is difficult to get any good view (if at all). Considering the historic "setting" of the building has all but disappeared (e.g.: the associated railroad yard trackage and associated features), the new roadway would not substantially detract from the former (and SHPO's concurrence included that aspect).

"(iii) The project results in a restriction on access which substantially diminishes the utility of a significant publicly owned park, recreation area, or a historic site;"

The existing access to the site would be perpetuated, therefore there would be no restriction on the access (please refer-to **Attachment 4** for both a map of the site and the access to-same).

"(iv) The vibration impact from operation of the project substantially impairs the use of a Section 4(f) resource, such as projected vibration levels from a rail transit project that are great enough to affect the structural integrity of a historic building or substantially diminish the utility of the building;"

(concluded-on next page)

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former MW&S shop (site 24CB1146)
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[response-to sub-subpart "(p)(4)(iv) vibration levels" - concluded:]

Since this proposed action is for relocating a highway and not "a transit project", "vibration levels" are not expected to be "great enough to affect the structural integrity of" the "building or substantially diminish the utility of the building." Furthermore, historically there were noticeable "vibration levels" associated with both the building's function and adjacent features [see comments for sub-subparts (p)(4)(i) & (ii), preceding].

"or

- (v) The ecological intrusion of the project substantially diminishes the value of wildlife habitat in a wildlife or waterfowl refuge adjacent to the project or substantially interferes with the access to a wildlife or waterfowl refuge, when such access is necessary for established wildlife migration or critical life cycle processes."

This sub-subpart is not applicable to this National Register site since there is no designated "wildlife or waterfowl refuge adjacent to" this proposed project, nor will the latter interfere "with the access to a wildlife or waterfowl refuge, when such access is necessary for established wildlife migration or critical life cycle processes."

- "(5) The Administration has reviewed the following situations and determined that a constructive use does not occur when:

- (i) Compliance with the requirements of Section 106 of the National Historic Preservation Act and 36 CFR part 800 for proximity impacts of the proposed action, on a site listed on or eligible for the National Register of Historic Places, results in an agreement of "no effect" or "no adverse effect"."

SHPO concurred that this "proposed project would have No Adverse Effect to 24CB1146" on December 9, 2003 [please refer to preceding sub-subpart (p)(4)(ii)'s response & Attachment 3 for that concurrence].

- "(ii) The projected traffic noise levels of the proposed highway project do not exceed the FHWA noise abatement criteria as contained in Table 1, 23 CFR part 772."

FHWA noise abatement criteria (NAC) for an industrial use is in Activity Category C, which has 72 dBA for L_{eq}(h). This site's within 0.4± kilometer (km, ¼± mile) of Belfry's northerly side, and therefore this proposed project's portion of the "preferred Railroad Alignment Alternative" is likely to be posted-for 70± km/h (45 mph). The predicted noise levels for this project in 2026 for various speeds and transects (distances from centerline) were presented in a subconsultant's Traffic Noise Impact Assessment Report of January 15, 2004. Estimated Traffic Noise Levels in this site's area are predicted to be below that 72 dBA NAC.

- "(iii) The projected noise levels exceed the relevant threshold in paragraph (p)(5)(ii) of this section because of high existing noise, but the increase in the projected noise levels if the proposed project is constructed, when compared with the projected noise levels if the project is not built, is barely perceptible (3 dBA or less)."

Predicted noise levels in this site's vicinity will not "exceed the relevant threshold in paragraph (p)(5)(ii)" [see comments for sub-subpart (5)(ii), preceding]. MDT's Noise Policy places far less emphasis on noise abatement and modeling of Land Use Category C sites, and therefore none would have been made for this site. However, as this site is not currently adjacent-to P-72 but will be just westerly-of the proposed highway, there is a good chance that the noise levels will increase by 13 dBA or more. While this increase represents an impact for sensitive noise receptors in MDT's Noise Policy, this site is not considered as-being such a recipient.

(concluded-on next page)

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[response-to subpart "(p)(5)" no "constructive use" - concluded:]

"(iv) There are proximity impacts to a Section 4(f) resource, but a governmental agency's Right-of-Way acquisition, an applicant's adoption of project location, or the Administration approval of a final environmental document, established the location for a proposed transportation project before the designation, establishment, or change in the significance of the resource. However, if the age of an historic site is close to, but less than, 50 years at the time of the governmental agency's acquisition, adoption, or approval, and except for its age would be eligible for the National Register, and construction would begin after the site was eligible, then the site is considered a historic site eligible for the National Register."

This site would have "proximity impacts" from this proposed project's "preferred Railroad Alignment Alternative" [see responses-to subpart "(e)(4)"]. However, it was previously determined "eligible for the National Register" [see response to part "(e)" previous], and therefore is not a "late designation" for "no constructive use" on same.

"(v) There are impacts to a proposed public park, recreation area, or wildlife refuge, but the proposed transportation project and the resource are concurrently planned or developed. Examples of such concurrent planning or development include, but are not limited to:

(A) Désignation or donation of property for the specific purpose of such concurrent development by the entity with jurisdiction or ownership of the property for both the potential transportation project and the Section 4(f) resource, or

(B) Designation, donation, planning or development of property by two or more governmental agencies, with jurisdiction for the potential transportation project and the Section 4(f) resource, in consultation with each other;"

Although this site is neither "a proposed public park, recreation area," nor "wildlife refuge" MDT has been "in consultation with" SHPO [see responses-to parts "(e)" & "(f)" previous] regarding this proposed project's affect on-same. A resultant measure to minimize harm is the proposed placement of an interpretive sign about the history of this site "within the community of Belfry" (see 1ST paragraph in Attachment 2's "Page 2 of 2"), which would be a "concurrent development by the entity with jurisdiction . . . of the property for both the potential transportation project and the Section 4(f) resource" on this proposed project.

"(vi) Overall (combined) proximity impacts caused by a proposed project do not substantially impair the activities, features, or attributes that qualify a resource for protection under Section 4(f);"

Essentially, the "(o)verall (combined) proximity impacts caused by" this proposed project on this site are the "no adverse effect" to its National Register eligibility, plus those from traffic noise and vibration [each referenced under the preceding responses to subpart "(4)'s" sub-subparts "(ii)" plus "(i)" & "(iv)" respectively]. As-mentioned in those responses, the latter two items were related-to this site's historic background in regards to sounds and effects from transportation-related (although technically different) activities. Therefore, this proposed project's "(o)verall (combined) proximity impacts" would not "impair the activities, features, or attributes that qualify a resource for protection under Section 4(f)" at this site.

"(vii) Proximity impacts will be mitigated to a condition equivalent to, or better than, that which would occur under a no-build scenario;"

As-referenced under the responses to this subpart "(5)'s" sub-subparts "(ii)" & "(iii)" this proposed project's noise impacts are less-than those required-for NAC mitigation. (concluded on next page)

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no "use" documentation for 23 CFR 771.135

STPP-F 72-1(1)10
BELFRY - NORTH
(PPMS-OPX2 C#1016)

[response-to sub-subpart "(p)(5)(vii)" - conclusion:]

Although more-noticeable than the (current) "no-build scenario" vibration impacts should (also) be minor based-on traffic volumes for this proposed project's "**preferred Railroad Alignment Alternative**" [see also response-to sub-subpart (4)(iv), preceding]. Placement of that historical interpretation sign referenced-in the preceding response to sub-subpart "(v)" would not occur under this proposed project's "no-build scenario" and no such marker exists at present.

"(viii) Change in accessibility will not substantially diminish the utilization of the Section 4(f) resource."

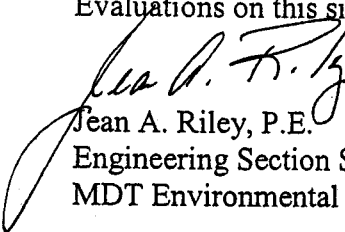
Both entry to and passage from the site, which is currently (on) private property, will be perpetuated, and therefore this proposed project's "**preferred Railroad Alignment Alternative** will not substantially diminish the utilization of" same.


"or

(ix) Vibration levels from project construction activities are mitigated, through advance planning and monitoring of the activities, to levels that do not cause a substantial impairment of the Section 4(f) resource."

This proposed project's "**preferred Railroad Alignment Alternative**" would cross Bear Creek approximately 110 meters (360+ ft.) southerly from the site's southerly end. That would be the nearest area where "vibration levels from project construction activities" (viz.: driving sheet-piles for a bridge) could exceed those from earth-moving equipment, vibratory compaction rollers, trucks, and similar during work in this site's immediate vicinity.

In accordance with the provisions of 23 CFR 771.135(p), this pending action's (preferred) "**Railroad Alignment Alternative**" would not cause any "use" (including "constructive use") under *Section 4(f)* of the 1966 U.S. DEPARTMENT OF TRANSPORTATION Act (49 U.S.C. 303). Therefore, the FHWA's concurrence is requested that this proposed project will not need in any further reviews regarding *Section 4(f)*, including those required-for either a "Nationwide" Programmatic or "full" DRAFT and FINAL Evaluations on this site.


Jean A. Riley, P.E.
Engineering Section Supervisor
MDT Environmental Services Bureau

Concur  , Date: 3 MAR 04
Federal Highway Administration

"ALTERNATIVE ACCESSIBLE FORMATS OF THIS
DOCUMENT WILL BE PROVIDED ON REQUEST."

Attachment 2 -
National Register eligibility correspondence



Montana Department of Transportation

2701 Prospect Avenue
PO Box 201001
Helena MT 59620-1001

David A. Galt, Director
Judy Martz, Governor

2003022503

February 24, 2003

Mark Baumler
State Historic Preservation Office
1410 8th Avenue
P.O. Box 201202
Helena, MT 59620-1202

Subject: F 72-1(1)10
Belfry - North
Control No. 1016

Josef
MDT
Belfry-North updated

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FEB 25 2003
BY: _____

Enclosed is the updated cultural resource report, CRABS and site forms for the above project in Carbon County. The MDT submitted the original cultural resource report to your office in 1989. I submitted site forms for additional properties in Belfry in the early 1990s. Eight sites have been previously determined eligible within the Belfry - North project corridor. They are: the First Presbyterian Church of Belfry (24CB678), the Clark's Fork River Bridge (24CB707/1144), the residence at the Middlesworth Farmstead (24CB1145), the Montana, Wyoming & Southern Railway (MW&S) Shop (24CB1146), the MW&S Depot (24CB1148), the Sand Creek Canal (24CB1150), the Golden Ditch (24CB1152), and the Dry Creek Canal (24CB1154). A Determination of Effect for these properties was submitted to your office in June, 1992 and a Memorandum of Agreement implemented in July, 1992.

The 2002 cultural resource survey recorded an additional 18 sites distributed in five parcels in the project area. RTI recommends two sites eligible for the NRHP: the Holland Lumber & Hardware Store (24CB1803) and the Kose Grocery (24CB1813). We agree with the recommendations and request your concurrence. RTI also noted the presence of the Youst Ditch (24CB1817) in the project area. It is covered under a programmatic agreement.

If you have any questions, please contact me at 444-6258.

Jon Axline
Jon Axline, Historian
Environmental Services

Enclosures

CONCUR
MONTANA SHPO

DATE 11 Mar 03 SIGNED *Josef D. [Signature]*

cc: Bruce Barrett, Billings District Administrator
Carl Peil, P.E., Preconstruction Bureau
Gordon Stockstad, Resources Section

File: MDT/2003

Environmental Services Unit
Phone: (406) 444-7228
Fax: (406) 444-7245

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Web Page: www.mdt.state.mt.us
Road Report: (800) 226-7623
TTY: (800) 335-7592

Attachment 3 –
"Determination of Effect" Correspondence

12/15/2003 09:31 4064447245

MDT ENVIRONMENTAL

PAGE 02

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Montana Department of Transportation

David A. Galt, Director

DEC 11 2003

2701 Prospect Avenue

PO Box 201001

Helena MT 59620-1001

C.R.

Judy Martz, Governor

ENVIRONMENTAL

MASTER FILE COPY

November 24, 2003

CONCUR

MONTANA SHPO

DATE 9 Dec 03 SIGNED

Mark Baumler, Ph.D.
State Historic Preservation Office
1410 8th Avenue
P O Box 201202
Helena, MT 59620-1202

RECEIVED
NOV 25 2003

Subject: F STPP 72-1(1)0
Belfry – North
Control No. 1016

BY: _____

Dear Mark:

Enclosed is an addendum to the cultural resource survey, CRABS and site forms for the above project. This report is an addendum to the February, 2003 report and concerns an alternative alignment recently developed near the junction of Montana Highway 72 and US Highway 310 on Ridgeway lane. This letter will also address a change in the design at the Montana, Wyoming & Southern Railroad Shop (24CB1146).

In the enclosed report, RTI recorded two additional historic sites within the APE for the proposed new alignment. One site, the Jennings Homestead (24CB1848) is recommended eligible for the National Register of Historic Places. We agree with that recommendation and request your concurrence. A third site, the Sarah Strong Farmstead (24CB1683) was recorded as part of the MDT's Bridger – South [NH 4-1(16)13] project and your office concurred in its ineligibility to the National Register on May 20, 2002. The Sand Creek Canal (24CB1150) was previously determined eligible for the National Register. If or when the revised alignment is approved, a Determination of Effect will be submitted to your office.

On June 30, 1992, your office concurred that the proposed Belfry – North project would have an Adverse Effect to the MW&S Shop (24CB1146). That determination was based on the assumption at the time that the proposed railroad grade alignment would result in the demolition of the structure. That Adverse Effect concurrence was restated in the amended Determination of Effect for this project on September 23, 2003. Since then, however, we have been working with the consultant to minimize the impact to the historic property. Consequently, an alternative has been proposed that would extend the curb and gutter section within the community of Belfry about 1,000-feet northward to encompass the old railroad shop. This would result in the minimization of the slopes and an offset of 5± feet to avoid the building. The roadway would be 32± feet in width and include two 12-foot driving lanes and two 4-foot shoulders in addition to the curb and gutter. Importantly, with this revision it would not be necessary to remove the MW&S Railroad Shop. Based on this modification of the design, we have revised our former

File: MDT/2003

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"Determination of Effect" Correspondence

12/15/2003 09:31 4064447245

MDT ENVIRONMENTAL

PAGE 03

Determination of Effect for this property. We have now determined that the proposed project would have No Adverse Effect to 24CB1146. Instead of being demolished, the building would remain in place and unaltered. The characteristics that make the site eligible for the NRHP would be perpetuated. It would not be isolated from its environment or suffer from neglect as a result of the project. It would not be demolished and the setting would largely remain intact. The MDT has, moreover, already conducted HABS-level photography of the site and completed other measures designed to mitigate the impacts to the site. The MDT would still install an historical marker along the proposed alignment between the shop and the MW&S Depot (24CB1148) within the community of Belfry. We feel this proposed option is a good alternative to the demolition of the historic building. We request your concurrence.

There are also two irrigation ditches on this project that are located within the Area of Potential Effect for this proposed project: the Sand Creek Canal (24CB1150) and the Dry Creek Canal (24CB1154). Montana Highway 72 crosses 24CB1150 twice at MP 19.88 and MP 20.42. Under the proposed project, the existing timber bridge would be removed and new concrete box culverts installed to replace them. The existing canal alignment would be perpetuated and the ditch would not be widened or re-channeled to accommodate the new structure. The highway crosses 24CB1154 three times at MPs 14.51, 16.48, and 19.40 (only the crossing at 14.51 is on a bridge). All three crossings would be replaced by box culverts (16.48 and 19.40 are already box culverts). The existing canal alignment would be perpetuated and there would be no widening or rechanneling to accommodate the new crossings. Based on this information, we have determined that the proposed project would have No Effect to the Sand Creek Canal (24CB1150) and the Dry Creek Canal (24CB1154). We request your concurrence.

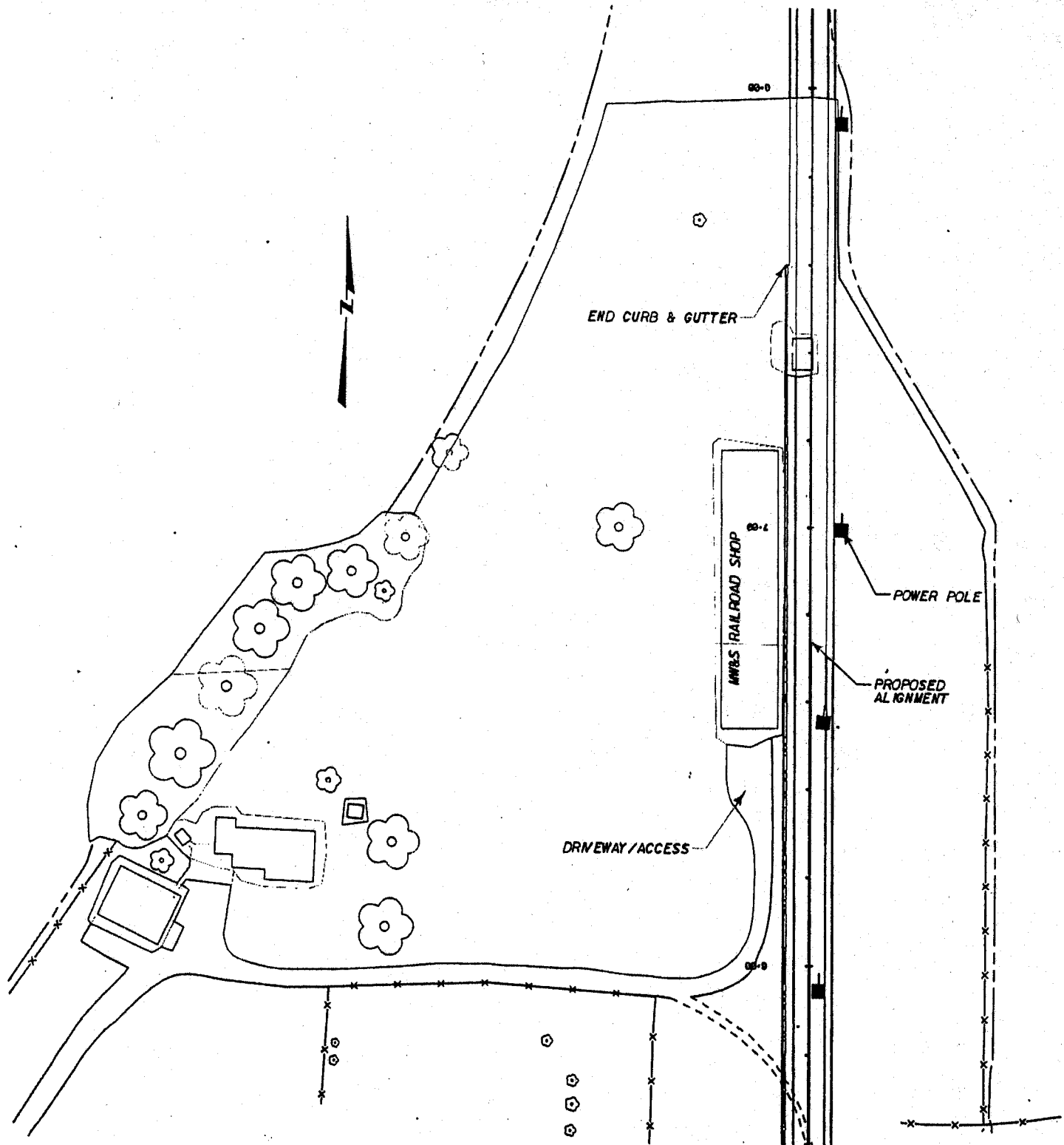
If you have any questions, please contact me at 444-6258.

Jon Axline
Jon Axline, Historian
Environmental Services

Attachment

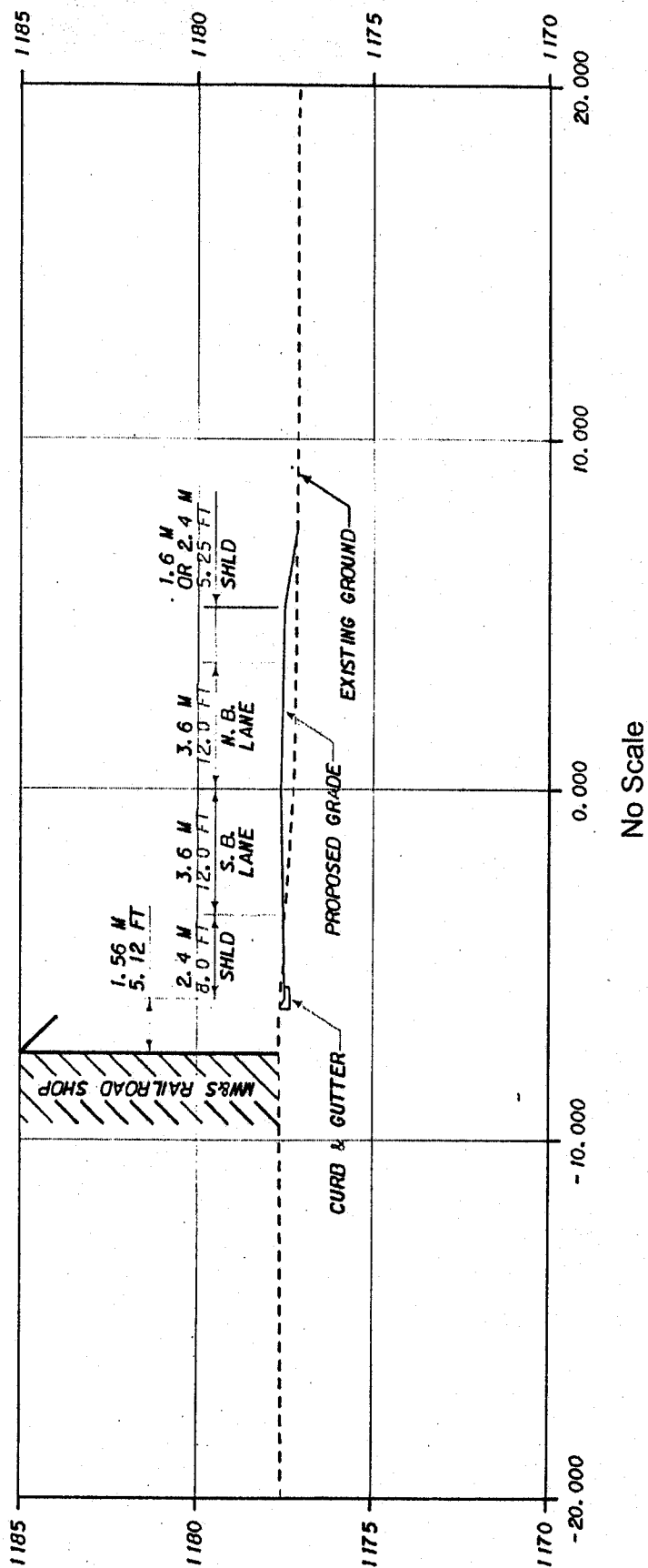
cc: Bruce Barrett, Billings District Administrator
Carl Peil, P.E., Preconstruction Bureau
Jean Riley, P.E., Engineering Section
Bonnie Steg, Resources Section

Attachment 4-
(preferred) "Railroad Alignment Alternative" Site Map @ former MW&S shop



No Scale

Attachment 5 –
(preferred) "Railroad Alignment Alternative" Typical Section @ former MW&S shop



No Scale

Montana Department of Transportation

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ENVIRONMENTAL

Attachment 1

Belfry – North STPP-F 72-1(1)10

Picnic Area West of Wisconsin Street – Section 4(f) Applicability

Location and Site Description

The picnic area is located between Broadway Avenue and Vaill Avenue west of Wisconsin Street (MT 72) as shown on attachment 2. The picnic area is in a school district parcel across the street from the Belfry K-12 School. This parcel size is 615 sq m (6620 sq ft) and is currently used for teacher and visitor parking as well as a picnic area. The parking area is adjacent to Wisconsin Street and the picnic area buffers the school parking from local residences. The parking area is approximately one-third of the site and the picnic facilities and undeveloped area cover approximately two-thirds of the site. The facilities on the picnic area include two picnic tables, a shade shelter, and a swing. There are several trees on this parcel.

Ownership

The parcel is owned by the Belfry School District 34. Therefore, this land is considered publicly owned.

Significance of Site

This parcel (both the picnic area and the parking) is open to the entire public at all times. According to Jed Landsman-Yankin, Superintendent, these facilities are occasionally used by travelers along MT-72 who will stop at the picnic facilities. The local community has access to extensive playground facilities behind the school and therefore they are not inclined to use the facilities on the picnic site. This picnic area is not used as a school playground and the school does not perform any routine maintenance of the facilities. The picnic area has no official designation as a park or recreation area.

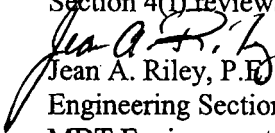
The official with jurisdiction over the site, the Superintendent, was consulted by letter on March 4, 2004 (refer to attachment 3). Although the Superintendent has not responded in writing, he did state in telephone conversations on March 12, 2004 and on May 5, 2004 that he believes that the site was developed as a buffer between the school parking and the residences and that is its main function or purpose. He has stated that the picnic site is not significant to the community as a park or recreation site, especially when compared to the other school playground facilities.

Applicability of Section 4(f) (23 CFR 771.135)

23 CFR 771.135 (a)(1) pertains to "land from a significant publicly owned public park, recreation area," Although the picnic area is publicly owned and it is open to the entire public; it is not "significant" as determined by the official with jurisdiction, the School District Superintendent.

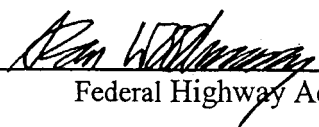
Concurrence on Findings

Based on the above information, 23 CFR 771.135 does not apply to the picnic area west of Wisconsin Street. The FHWA's concurrence is requested on this finding and that no further Section 4(f) reviews are needed for this site.


Jean A. Riley, P.E.

Engineering Section Supervisor
MDT Environmental Services Bureau

Concur


Federal Highway Administration

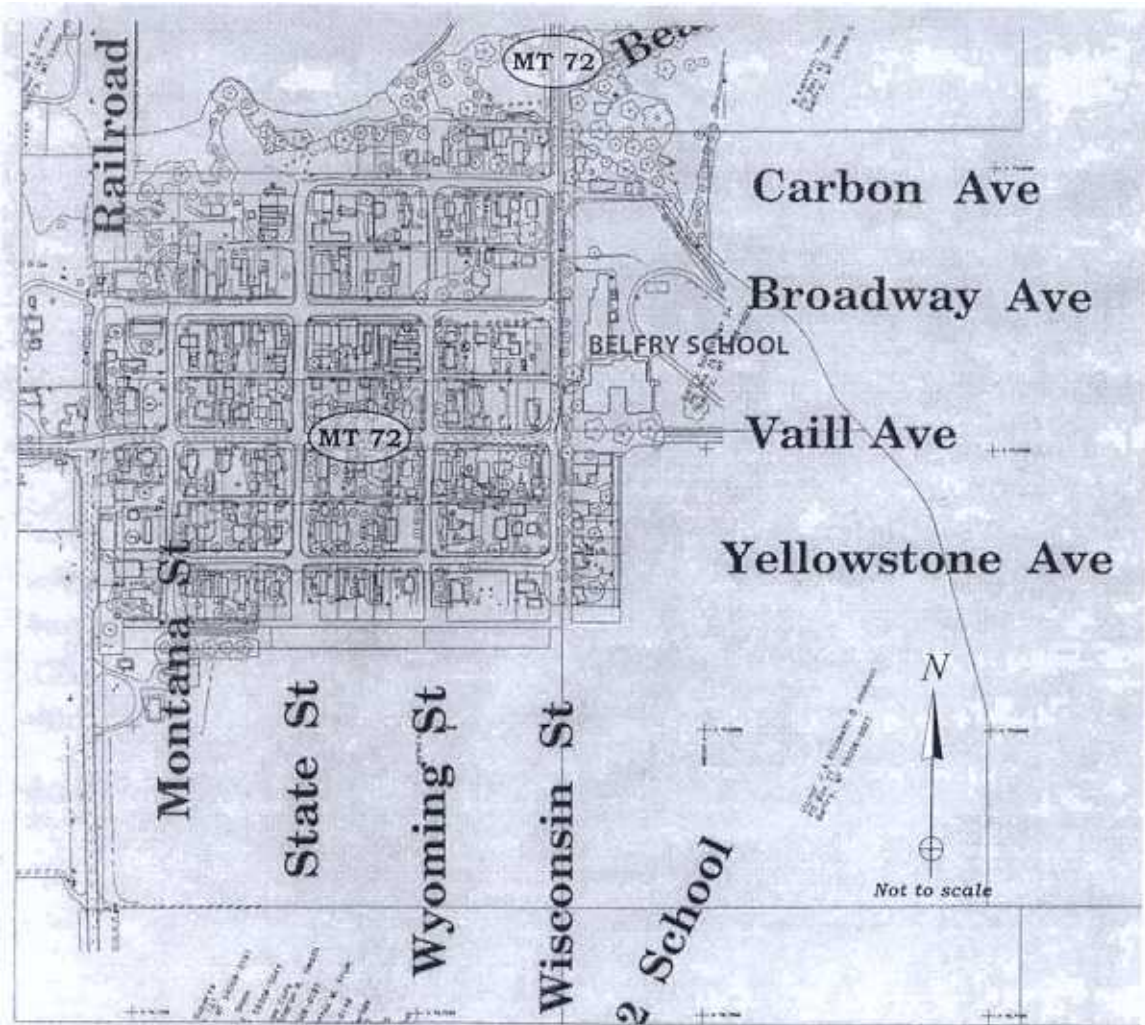
Date 18 MAY 04

ATTACHMENT 2



Belfry School Picnic Area,
left side of photograph
(view from MT 72/Wisconsin
Street, looking north)

 Belfry School Picnic Area on Map





DAVID EVANS
AND ASSOCIATES INC

March 4, 2004

Belfry K-12 Schools, Districts 34 and 3
P.O. Box 210
Belfry, MT 59008-0028

Attention: Mr. Jed Landsman-Yankin,
Superintendent

**Subject: STPP-F 72-1(1)10
BELFRY - NORTH
(PPMS-OPX2 Control #1016)**

Dear Mr. Landsman-Yankin,

You may recall a letter David Evans and Associates, MDT's project consultant, sent you on May 31, 2002 to inform you of the above-referenced highway improvement project on MT 72. This letter is to request School District No. 34 to be a Cooperating Agency on this proposed project in accordance with the U.S. Department of Transportation's Federal Highway Administration (FHWA) regulations under the *National Environmental Policy Act (NEPA)*, see 23 CFR 771.111(d).

The proposed project's current route on Montana Primary highway route #72 adjoins both the school grounds along Wisconsin Street's easterly side between Vaill Avenue and Carbon Avenue, and the school district's parking and picnic areas on both sides of Broadway Avenue ending at its "T" intersection with Wisconsin Street. These areas are between MT 72's "Reference" (Mile) Posts 10.8± and 11.0± on Belfry's easterly side, with the school grounds located in the N.W.¼ of the N.W.¼ in Section 14 within Township - 8 - South, Range - 22 - East. The parking and picnic areas are located in lots 19 - 24 of block 9 and lots 1 - 2 of block 16 in the original plat of Belfry's townsite in the N.E.¼ of the N.E.¼ in Section 15 within Township - 8 - South, Range - 22 - East.

Alternatives

The proposed project is a full reconstruction that will involve selection of a route through Belfry. There are three alternatives under consideration within Belfry. They include the No-Build Alternative (MT 72 remains on Vaill Avenue and Wisconsin Street), the Railroad Alignment Alternative, and the Broadway Avenue Alternative. Copies of the documentation describing this proposed project with maps for this proposed project's alternatives are enclosed.

Mr. Jed Landsman-Yankin,
 Superintendent
 Page 2
 March 4, 2004



As shown on the attached maps, the No-Build Alternative and the Railroad Alignment Alternative do not result in any roadway changes to Wisconsin Street between Vaill Avenue and Carbon Avenue in front of the school. However, in the Railroad Alignment Alternative, the regional traffic would be diverted from Vaill Avenue to the Railroad Avenue Alignment and therefore the traffic passing by the school would be substantially reduced.

The Broadway Alternative includes improving Broadway Avenue as MT 72. Consequently, the Broadway Avenue and Wisconsin Street Intersection would be reconfigured so that Wisconsin Street would be closed at this intersection. As shown in the attached figure, this closure provides an opportunity to include a cul-de-sac or school bus turnaround on Wisconsin Street in front of the school. This proposed cul-de-sac or turnaround would encroach into the school-owned picnic area on the west side of Wisconsin Street.

Section 4(f) Regulations

Regulations under 49 U.S.C. 303 (Section 4(f)), pertain to public parks and recreation areas, wildlife and waterfowl refuges and historic sites that are considered significant by the agency with jurisdiction over the land. Therefore we need your assistance in determining the applicability of Section 4(f) to school property in this area.

This proposed project's Broadway Avenue Alternative may be under the provisions of "*Section 4(f)*" of the 1966 *U.S. Department of Transportation Act* (49 U.S.C. 303). These provisions only apply if the School's lands are used and/or designated as any of the following:

- a. Parks and/or Recreation Areas;
- b. Wildlife/Waterfowl Refuges;
- c. Sites eligible for inclusion, or in the NATIONAL REGISTER OF HISTORIC PLACES under *Section 106* of the *National Historic Preservation Act* (16 U.S.C. 470). (Note: MDT has conducted Cultural Resource Surveys to identify these sites, and none were located-on School's parcels.);

and/or

- d. Lands managed for multiple-use with specifically-designated recreational, or wildlife/waterfowl management sites, and under statute(s) providing for same. This only applies to those same specific site/s.

Although the School's parcels could be classified "*Section 4(f)*" in either items "a." or "d." preceding, this proposed project will not require use of those for new or additional easements under its No-Build or Railroad Alignment alternatives. However, as stated previously, the Broadway Avenue Alignment Alternative could require use of the school property, especially on the west side of Wisconsin Street. Therefore, the School is requested to provide information on the following:

Mr. Jed Landsman-Yankin.
 Superintendent
 Page 3
 March 4, 2004



if the School's parcels are open for public (e.g.: "recreational" such as in a park) use at any time other than for school-related activities; and

if "yes" to the preceding, are these parcels (including the parcels on the west side of Wisconsin Street) considered significant for such use within the unincorporated community of Belfry.

A written response to this Cooperating Agency request and a response to the preceding 4(f) items, is needed for the environmental documentation on this proposed project. Please send your response to the address on the first page. MDT will provide a copy of the ROUGH DRAFT environmental document (currently, an Environmental Assessment) on this proposed project for review by the School District as a Cooperating Agency.

If you have any questions, please feel free to contact me at (720) 946-0969 to discuss this request.

Sincerely,
DAVID EVANS AND ASSOCIATES, INC.

Debra Perkins-Smith, AICP
 Vice President

Copies Bruce H. Barrett, Administrator – MDT Billings District № 5
 Carl S. Peil, P.E. – MDT Preconstruction Engineer
 Thomas S. Martin, P.E. – MDT Consultant Design Engineer
 John H. Horton, Jr. – MDT Right-of-Way Bureau Chief
 Timothy W. Reardon, Chief Counsel – MDT Legal Services
 Dave M. Hill, Chief – MDT Environmental Services Bureau, w/attachments
 Jean A. Riley, P.E. – MDT Environmental Services Engineering Section Supervisor
 Carl D. James, Field Operations Engineer – FHWA MT Division

Attachments/Enclosures

Initials: srsa

File Name: P:\MDOT0000-0013 Belfry North\ADMIN\Letters\4(f)\Impacts School_MDT+DEA.doc

Alternatives within the town of Belfry

Three alternatives are under consideration within the town of Belfry and are described here.

No-Build Alternative

The No-Build Alternative is the current MT 72 alignment and configuration. In the town it is located on Vaill Avenue and curves northward in front of the Belfry School on Wisconsin Street and proceeds north on the existing alignment. There would be no change in roadway, pedestrian or parking conditions under the No-Build Alternative. MDT would continue to maintain the highway.

Railroad Alignment Alternative

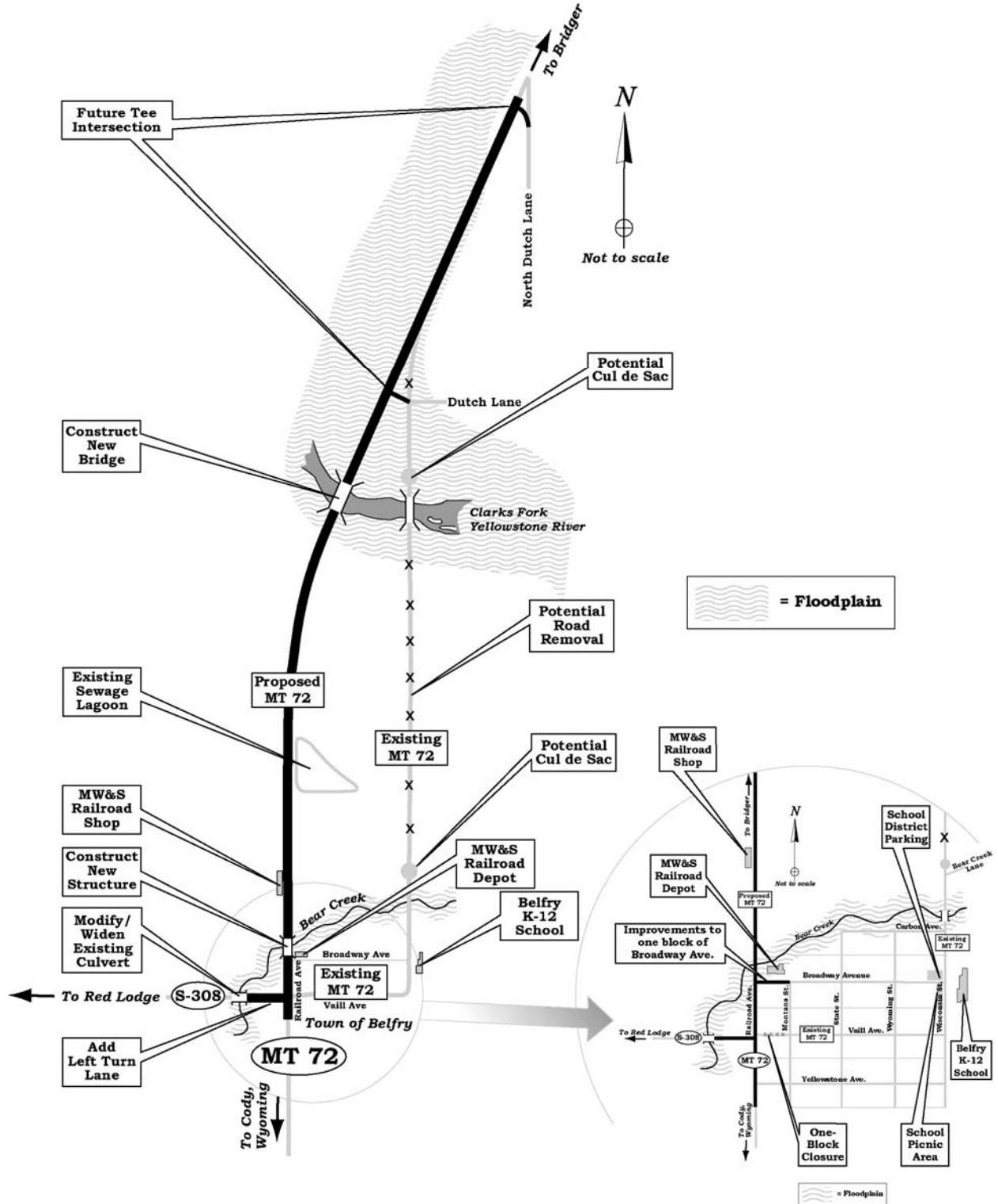
This alternative would create a new alignment for MT 72, relocating it from Vaill Avenue and Wisconsin Street to Railroad Avenue on the western edge of town. The alternative would begin on MT 72, south of Railroad Avenue's present intersection with S-308. It would follow Railroad Avenue to its current terminus in town and continue north on the old MW&S Railroad alignment to North Dutch Lane. With this alternative, Vaill Avenue would be closed one block to the east to create a safer tee ("T") intersection where S-308 intersects with MT 72. The realignment of MT 72 to the west side of town would divert through-traffic away from residential Vaill Avenue, and would reduce the amount of traffic in front of the Belfry School. To improve the connection between the business district and the new MT 72, the first block of Broadway Avenue adjacent to the new MT 72 alignment would be improved and reconstructed.

Broadway Avenue Alternative

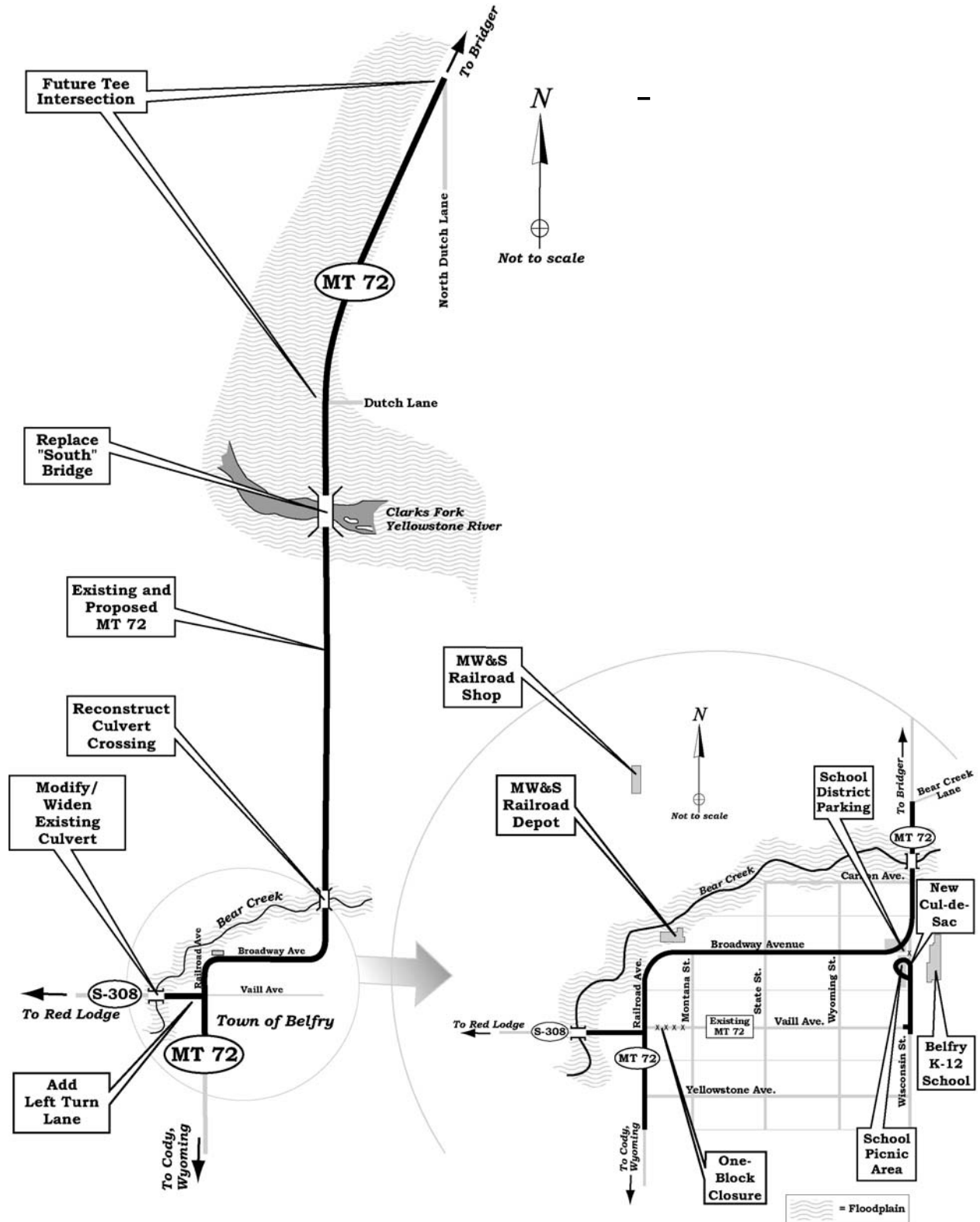
Under the Broadway Avenue Alternative, the MT 72 alignment would be shifted one block north from Vaill Avenue to Broadway Avenue. This alternative, like the Railroad Alignment Alternative, would begin near the existing MT 72/S-308 intersection. This intersection would be redesigned into a tee ("T") intersection, eliminating the connection to Vaill Avenue to improve the intersection.

From the S-308 intersection, the MT 72 alignment would continue north along Railroad Avenue to Broadway Avenue and follow a 40 kph (25 mph) curve to join MT 72 to Broadway Avenue west of Montana Street. The section of Broadway between Railroad Avenue and Wisconsin Street would be improved with parking and sidewalks on each side. At the Wisconsin Street tie-in, the current 3-legged intersection at Broadway Avenue and Wisconsin Street would be modified to a curve, and Wisconsin Street south of Broadway Avenue would be disconnected from Broadway Avenue. In front of the Belfry School near this curve, a segment of Wisconsin Street would be reconstructed into a cul de sac, which would be accessible only from Vaill Avenue and Yellowstone Avenue. The cul de sac would provide drop-off and turn-around access to Belfry School for school buses and parents. From the Wisconsin Street curve, the Broadway Avenue alignment would proceed northerly on the existing MT 72 alignment.

Railroad Alignment Alternative



Broadway Avenue Alternative



From: <JLandsmany@aol.com>
To: <dps@deainc.com>
Date: 5/7/04 9:09AM
Subject: (no subject)

May 7, 2004

Debra,

I had one incorrect letter in the address.....hope this works!
Jed

May 5, 2004

Hi Debra,

Belfry School District #3 is interested in being a co-operating agent regarding the "Belfry-North" highway project.

To the best of my knowledge, the "picnic area" across the street from the entrance to the elementary building is not a significant area. It is occasionally used by people passing through town.

Please call me if there is anything I can do to help you.

Jed L-Yakin
Superintendent, Belfry Schools